

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
KAPALUA WATER COMPANY, LTD.)
For Review and Approval of Rate)
Increases; Revised Rate Schedules;)
and Revised Rules.)

DOCKET NO. 2008-0325

ORDER REGARDING COMPLETED
APPLICATION AND OTHER INITIAL MATTERS

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

PUBLIC UTILITIES
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FILED

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Docket No. 2008-0325

ORDER REGARDING COMPLETED
APPLICATION AND OTHER INITIAL MATTERS

By this Order, the commission finds that KAPALUA WATER COMPANY, LTD.'s ("KWC") application is complete and properly filed under Hawaii Revised Statutes ("HRS") § 269-16(f) and Hawaii Administrative Rules ("HAR") § 6-61-88.¹ The filing date of KWC's completed Application is January 15, 2009. The commission also instructs the Parties to file a stipulated procedural order for the commission's review and approval within fourteen days of the commission's order addressing intervention or participation without intervention; or if no intervention motions are filed, within seven days of the deadline for intervention. If the Parties are unable to stipulate to a

¹KWC's Application; Exhibits KWC 1 through KWC 12; Exhibit KWC-T-100; Attachment 1; Verification; and Certificate of Service, filed on January 15, 2009 ("Application"). Copies of the Application were served on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this proceeding pursuant to HRS § 269-51 and HAR § 6-61-62. KWC and the Consumer Advocate are hereafter jointly referred to as the "Parties."

procedural order, the commission will issue its own procedural order that complies with the time requirements of HRS § 269-16(f)(3).

I.

Background

KWC is a Hawaii corporation and wholly-owned subsidiary of Maui Land & Pineapple Company, Inc. ("ML&P"). It is a public utility authorized to provide water utility services since 1977 pursuant to Decision and Order No. 4813, filed on September 2, 1977, in Docket No. 3157. KWC currently provides potable and non-potable water utility service to approximately 4,500 individuals in eleven developments and a hotel in KWC's service territory.

On December 30, 2008, KWC filed a motion for commission approval to waive certain general rate case application regulatory requirements, specifically, to: (1) submit unaudited financial information in lieu of the audited balance sheet required by HAR § 6-61-75(b)(1); and (2) utilize calendar 2009 test year financial data in the place of mid-year 2009-2010 test year data required by HAR § 6-61-88(3) in its Application. By the Order Regarding Submission of Unaudited Financial Information and Modified Test Year, filed on January 30, 2009 in this docket, the commission approved KWC's requests, subject to the condition that KWC make available for review all documentation in support of its financial statements, including all books and records.

On January 15, 2009, KWC filed its Application, requesting approval of a rate increase, revised rate schedules and rules. Specifically, KWC requests commission approval of a net revenue increase of \$473,561, or an approximate 26.9% increase over the pro forma revenue amount of \$1,759,260 at present rates for the 2009 test year. If approved, the proposed revenue increase will provide KWC with the opportunity to earn an 8.85% rate of return.² In addition, KWC seeks approval to establish an Automatic Power Cost Adjustment Clause ("APCAC") for its service to allow it to increase or decrease the rates based on any corresponding increase or decrease in its cost for electricity. Furthermore, KWC requests approval to establish a Purchased Water Adjustment Clause ("PWAC") to allow it to pass on to its customers changes in the electric expense incurred by ML&P for providing water to KWC under a water purchase agreement between KWC and ML&P.³ Finally, KWC requests authorization to amend Rule VI, Section 15(a) of its Rules and Regulations to increase its reconnection fee from \$5.00 to \$50.00.⁴

On February 4, 2009, the Consumer Advocate filed its Statement of Position Regarding Completeness of Application, stating that it does not object to the completeness of KWC's Application.

²Application, at 5.

³Application, at 9-10.

⁴Application, at 11.

II.

Discussion

A.

Completed Application

KWC is a public utility with annual gross operating revenues of less than \$2 million. As such, KWC filed its Application under HAR § 6-61-88 (Requirements for General Rate Increase Applications by a Public Utility with Annual Gross Operating Revenues of Less than \$2,000,000) and HRS § 269-16(f). Under HRS § 269-16(f), the commission must make every effort to issue its proposed decision and order within six months from the filing date of KWC's completed Application, "provided that all parties to the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene." HRS § 269-16(f)(3).

Upon review, and there being no objection by the Consumer Advocate, the commission finds that KWC's Application is complete and properly filed under HRS § 269-16(f) and HAR § 6-61-88. Accordingly, the filing date of KWC's completed Application is January 15, 2009.

B.

Stipulated Procedural Order

The commission interprets HRS § 269-16(f)(3) to require the commission to issue a procedural order that allows the commission to complete its review and issue its proposed decision and order within the six-month period prescribed in

HRS § 269-16(f)(3). For this reason, the Parties are instructed to: (1) initiate the discovery process without delay; and (2) submit a stipulated procedural order setting forth the issues, procedural schedule, and procedures to govern KWC's Application, within fourteen days of the commission's order addressing intervention or participation without intervention; or if no intervention motions are filed, within seven days of the deadline for intervention. If intervention is not granted, the stipulated procedural schedule to be submitted by the Parties shall, at a minimum, provide that: (1) KWC's rebuttal testimony (or rebuttal statement of position), if any, be filed by Monday, June 8, 2009; and (2) the Parties' settlement agreement, if any, be filed by Monday, June 15, 2009, in order for the commission to reasonably meet the six-month deadline of July 15, 2009. If the Parties are unable to agree on a procedural order, as prescribed, the commission will issue its own procedural order in accordance with HRS § 269-16(f)(3).

Under HRS § 269-16(f)(3), in the event that the conditions of the subsection are fully met (i.e., the Parties strictly comply with the established procedural schedule and no person is granted intervention), the Parties shall not be entitled to a contested case hearing prior to the issuance of the commission's proposed decision and order.

III.

Orders

THE COMMISSION ORDERS:

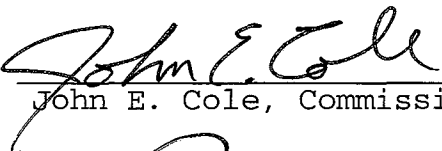
1. The filing date of KWC's completed Application is January 15, 2009.

2. The Parties shall: (a) initiate the discovery process without delay; and (b) unless directed otherwise, submit a stipulated procedural order setting forth the issues, procedural schedule, and procedures to govern KWC's Application, within fourteen days of the commission's order addressing intervention or participation without intervention; or if no intervention motions are filed, within seven days of the deadline for intervention. If no motions to intervene are granted, the stipulated procedural schedule to be submitted by the Parties shall, at a minimum, provide that: (1) KWC's rebuttal testimony (or rebuttal statement of position), if any, be filed by Monday, June 8, 2009; and (2) the Parties' settlement agreement, if any, be filed by Monday, June 15, 2009, in order for the commission to reasonably meet the six-month deadline of July 15, 2009. If the Parties are unable to agree on a procedural order, as prescribed, the commission will issue its own procedural order in accordance with HRS § 269-16(f)(3).

DONE at Honolulu, Hawaii FEB 20 2009.

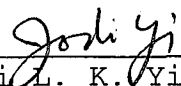
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Jodi L. K. Yi
Commission Counsel

2008-0325.cp

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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